

REPEALS

Amendment by section 103 of Pub. L. 96-161, cited as a credit to this section, was repealed at the close of Mar. 31, 1980, by section 307 of Pub. L. 96-221, and substantially identical provisions were enacted by section 305 of Pub. L. 96-221, such amendments to take effect at the close of Mar. 31, 1980.

§ 1757a. Limitation on member business loans**(a) In general**

On and after August 7, 1998, no insured credit union may make any member business loan that would result in a total amount of such loans outstanding at that credit union at any one time equal to more than the lesser of—

(1) 1.75 times the actual net worth of the credit union; or

(2) 1.75 times the minimum net worth required under section 1790d(c)(1)(A) of this title for a credit union to be well capitalized.

(b) Exceptions

Subsection (a) does not apply in the case of—

(1) an insured credit union chartered for the purpose of making, or that has a history of primarily making, member business loans to its members, as determined by the Board; or

(2) an insured credit union that—

(A) serves predominantly low-income members, as defined by the Board; or

(B) is a community development financial institution, as defined in section 4702 of this title.

(c) Definitions

As used in this section—

(1) the term “member business loan”—

(A) means any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose; and

(B) does not include an extension of credit—

(i) that is fully secured by a lien on a 1- to 4-family dwelling;

(ii) that is fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;

(iii) that is described in subparagraph (A), if it was made to a borrower or an associated member that has a total of all such extensions of credit in an amount equal to less than \$50,000;

(iv) the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, any agency of the Federal Government or of a State, or any political subdivision thereof; or

(v) that is granted by a corporate credit union (as that term is defined by the Board) to another credit union.

(2) the term “net worth”—

(A) with respect to any insured credit union, means the credit union’s retained earnings balance, as determined under generally accepted accounting principles; and

(B) with respect to a credit union that serves predominantly low-income members,

as defined by the Board, includes secondary capital accounts that are—

(i) uninsured; and

(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund; and

(3) the term “associated member” means any member having a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

(d) Effect on existing loans

An insured credit union that has, on August 7, 1998, a total amount of outstanding member business loans that exceeds the amount permitted under subsection (a) shall, not later than 3 years after August 7, 1998, reduce the total amount of outstanding member business loans to an amount that is not greater than the amount permitted under subsection (a).

(e) Consultation and cooperation with State credit union supervisors

In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.

(June 26, 1934, ch. 750, title I, §107A, as added Pub. L. 105-219, title II, §203(a), Aug. 7, 1998, 112 Stat. 920; amended Pub. L. 115-174, title I, §105(a), May 24, 2018, 132 Stat. 1301.)

Editorial Notes

AMENDMENTS

2018—Subsec. (c)(1)(B)(i). Pub. L. 115-174 struck out “that is the primary residence of a member” after “dwelling”.

Statutory Notes and Related Subsidiaries

RULE OF CONSTRUCTION

Pub. L. 115-174, title I, §105(b), May 24, 2018, 132 Stat. 1301, provided that: “Nothing in this section [amending this section] or the amendment made by this section shall preclude the National Credit Union Administration from treating an extension of credit that is fully secured by a lien on a 1- to 4-family dwelling that is not the primary residence of a member as a member business loan for purposes other than the member business loan limitation requirements under section 107A of the Federal Credit Union Act (12 U.S.C. 1757a).”

STUDY AND REPORT

Pub. L. 105-219, title II, §203(b), Aug. 7, 1998, 112 Stat. 922, required the Secretary to conduct a study of member business lending by insured credit unions, with a final report to be sent to Congress not later than 12 months after Aug. 7, 1998.

§ 1758. Bylaws

In order to simplify the organization of Federal credit unions the Board shall from time to time cause to be prepared a form of organization certificate and a form of bylaws, consistent with this chapter, which shall be used by Federal credit union incorporators, and shall be supplied to them on request. At the time of presenting the organization certificate the incorporators shall also submit proposed bylaws to the Board for its approval.

(June 26, 1934, ch. 750, title I, §108, formerly §8, 48 Stat. 1219; 1947 Reorg. Plan No. 1, §401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§1, 2, 62 Stat. 1091; renumbered §9 and amended Pub. L. 86-354, §1, Sept. 22, 1959, 73 Stat. 631; Pub. L. 91-206, §2(1), Mar. 10, 1970, 84 Stat. 49; renumbered title I, §108, Pub. L. 91-468, §1(2), Oct. 19, 1970, 84 Stat. 994; amended Pub. L. 95-630, title V, §502(b), Nov. 10, 1978, 92 Stat. 3681.)

Editorial Notes

AMENDMENTS

1978—Pub. L. 95-630 substituted “Board” for “Administrator” in two places, and “its approval” for “his approval”.

1970—Pub. L. 91-206 substituted “Administrator” for “Director” in two places.

1959—Pub. L. 86-354 substituted “from time to time” for “, upon the passage of this Act,”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, and transitional provisions, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of this title.

Executive Documents

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and Governor thereof, generally, see notes set out under section 1751 of this title.

Functions of Governor of Farm Credit Administration under this section transferred to Federal Deposit Insurance Corporation by Reorg. Plan No. 1 of 1947.

§ 1759. Membership

(a) In general

Subject to subsection (b), Federal credit union membership shall consist of the incorporators and such other persons and incorporated and unincorporated organizations, to the extent permitted by rules and regulations prescribed by the Board, as may be elected to membership and as such shall each, subscribe to at least one share of its stock and pay the initial installment thereon and a uniform entrance fee if required by the board of directors. Shares may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is a qualified member.

(b) Membership field

Subject to the other provisions of this section, the membership of any Federal credit union shall be limited to the membership described in one of the following categories:

(1) Single common-bond credit union

One group that has a common bond of occupation or association.

(2) Multiple common-bond credit union

More than one group—

(A) each of which has (within the group) a common bond of occupation or association; and

(B) the number of members, each of which (at the time the group is first included within the field of membership of a credit union described in this paragraph) does not exceed any numerical limitation applicable under subsection (d).

(3) Community credit union

Persons or organizations within a well-defined local community, neighborhood, or rural district.

(c) Exceptions

(1) Grandfathered members and groups

(A) In general

Notwithstanding subsection (b)—

(i) any person or organization that is a member of any Federal credit union as of August 7, 1998, may remain a member of the credit union after August 7, 1998; and

(ii) a member of any group whose members constituted a portion of the membership of any Federal credit union as of August 7, 1998, shall continue to be eligible to become a member of that credit union, by virtue of membership in that group, after August 7, 1998.

(B) Successors

If the common bond of any group referred to in subparagraph (A) is defined by any particular organization or business entity, subparagraph (A) shall continue to apply with respect to any successor to the organization or entity.

(2) Exception for underserved areas

Notwithstanding subsection (b), in the case of a Federal credit union, the field of membership category of which is described in subsection (b)(2), the Board may allow the membership of the credit union to include any person or organization within a local community, neighborhood, or rural district if—

(A) the Board determines that the local community, neighborhood, or rural district—

(i) is an “investment area”, as defined in section 4702(16) of this title, and meets such additional requirements as the Board may impose; and

(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 1813 of this title), by other depository institutions (as defined in section 461(b)(1)(A) of this title); and

(B) the credit union establishes and maintains an office or facility in the local community, neighborhood, or rural district at which credit union services are available.

(d) Multiple common-bond credit union group requirements

(1) Numerical limitation

Except as provided in paragraph (2), only a group with fewer than 3,000 members shall be eligible to be included in the field of membership category of a credit union described in subsection (b)(2).

(2) Exceptions

In the case of any Federal credit union, the field of membership category of which is de-